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AUG 25 2008

OFFICE OF PETITIONS

In re Application of :
David, et al. :
Application No. 09/758,902 :
Filed: January 11, 2001 :
Attorney Docket No. PC9047D :
For: MULTICOMPONENT CLOSTRIDIAL
VACCINES USING SAPONIN ADJUVANTS

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on June 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to properly respond to the final Office action mailed December 4, 2007, which set an extendable three month period for reply. Applicants submitted an amendment after final on March 4, 2008. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the March 20, 2008 Advisory action. Accordingly, this application became abandoned on March 5, 2008.

Applicants have submitted a RCE and required \$810.00 fee and amendment as the submission in reply to the December 4, 2007 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the December 4, 2007 final Office action, and the \$1,540.00 petition fee.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioners must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from

the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioners must notify the Office.


There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$1,050.00 extension of time submitted with the petition on June 11, 2008 was submitted subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to petitioners' deposit account.

Petitioners are informed that the first named inventor is Roberts S. David. This is the typewritten name listed as the first joint inventor in the declaration filed on January 11, 2001. If petitioners wish the Office to recognize the signed version of the name – David S. Roberts- then a petition under 37 CFR 1.182 and a \$400.00 petition fee is required. MPEP 605.04(b)

After the mailing of this decision the application will be forwarded to Technology Center AU 1645 for consideration of the RCE and amendment filed on June 11, 2008.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.


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